

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

VetBridge Product Development Subsidiary I)
(NM-OMP), LLC,)
)
)
Plaintiff,) Case No. _____
)
)
vs.) CASE BELOW:
) Circuit Court of Buchanan County
NewMarket Pharmaceuticals, LLC,) Case No. 18BU-CV03640
)
)
Defendant.) JURY DEMAND

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant NewMarket Pharmaceuticals, LLC ("NewMarket"), by and through its undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby files this Notice of Removal of the above-captioned action from the Circuit Court of Buchanan County, Missouri, to the United States District Court for the Western District of Missouri, St. Joseph Division. In support of this Notice of Removal, NewMarket states as follows:

1. On or about August 29, 2018, Plaintiff VetBridge Product Development Subsidiary I (NM-OMP), LLC filed its Verified Petition for Damages, Specific Performance & Injunctive Relief (the "Petition") in the matter entitled *VetBridge Product Development Subsidiary I (NM-OMP), LLC v. NewMarket Pharmaceuticals, LLC*, Case No. 18BU-CV03640, in the Circuit Court of Buchanan County, Missouri.

2. NewMarket, to the extent service was sufficient, was served with the Petition and Summons on September 7, 2018.¹ This Notice of Removal is thus timely filed pursuant to 28 U.S.C. § 1446(b). *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48

¹ As required by 28 U.S.C. § 1446(a), file-stamped copies of all process, pleadings, orders and other papers or exhibits served on NewMarket are attached hereto as Exhibit A.

(1999) (holding that the thirty-day deadline for removal "is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, 'through service or otherwise,' after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service").

3. NewMarket is the sole Defendant in this action, and consents to removal pursuant to 28 U.S.C. § 1446(b)(2)(A).

4. Venue of this removal is proper under 28 U.S.C. § 1441(a) because the Circuit Court of Buchanan County, Missouri is located within the Western District of Missouri.

5. This action is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a), and which may be removed pursuant to 28 U.S.C. § 1441.

6. Diversity jurisdiction exists under 28 U.S.C. § 1332(a) where the amount in controversy exceeds \$75,000 and there is complete diversity between Plaintiff and Defendant. Here, both requirements are satisfied.

7. To satisfy the amount in controversy requirement, "the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy." 28 U.S.C. § 1446(c)(2).

8. By way of its Petition, Plaintiff asserts two breach of contract claims and seeks from NewMarket, amongst other things, actual damages that allegedly exceed \$81,000,000.00.

9. Accordingly, Plaintiff's Petition plainly satisfies the amount in controversy requirement because it explicitly demands damages in an amount exceeding \$75,000.

10. On information and belief, Plaintiff VetBridge Product Development Subsidiary I (NM-OMP), LLC is a Missouri limited liability company with its principal place of business in Missouri. Petition ¶ 1. Plaintiff is therefore a citizen of Missouri. 28 U.S.C. § 1332(c)(1) ("a

corporation shall be deemed to be a citizen of every State ... by which it has been incorporated and of the State ... where it has its principal place of business").

11. Defendant NewMarket Pharmaceuticals, LLC is a Delaware corporation with its principal place of business in New Jersey. Petition ¶ 2. NewMarket is therefore a citizen of Delaware and New Jersey, but not Missouri.

12. Because there is complete diversity of citizenship between Plaintiff, a citizen of Missouri, and Defendant, a citizen of Delaware and/or New Jersey, and the amount in controversy exceeds \$75,000, removal is proper pursuant to 28 U.S.C. § 1332(a).

13. In accordance with 28 U.S.C. § 1446(d), NewMarket's written notice of the removal of this action will be promptly served upon Plaintiff's counsel, and a Notice of Filing of the Notice of Removal is simultaneously being filed with the Clerk of the Circuit Court of Buchanan County, Missouri.

WHEREFORE, Defendant NewMarket Pharmaceuticals, LLC hereby removes this action from the Circuit Court of Buchanan County, Missouri, to this Court.

Dated: October 5, 2018

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Brett A. Shanks

Brett A. Shanks, MO #67749
1201 Walnut Street, Suite 2900
Kansas City, Missouri, 64105
Telephone: 816-691-2736
Facsimile: 816-412-8123
Brett.shanks@stinson.com

ATTORNEYS FOR DEFENDANT
NEWMARKET PHARMACEUTICALS,
LLC

Certificate of Service

I hereby certify that on this 5th day of October, 2018, the above pleading was filed with the Court via the CM/ECF system, and served on the following via electronic mail:

Greer S. Lang
Brian W. Fields
LATHROP & GAGE LLP
2345 Grand Boulevard, Suite 2200
Kansas City, Missouri 64108-2618
Phone: 816.292.2000
Fax: 816.292.2001
glang@lathropgage.com
bfields@lathropgage.com

Attorneys for Plaintiff
VetBridge Product Development Subsidiary I
(NM-OMP), LLC

/s/ Brett A. Shanks _____

Brett A. Shanks

Attorney for Defendant